REMARKS

The June 18, 2007 Office Action was based on pending Claims 33–66. By this Response, Applicant is amending Claims 33, 42, 45, 48, 52, 56–59 and 62, and is cancelling Claims 46, 47 and 55 without prejudice or disclaimer. Claims 34–41, 43, 44, 49–51, 53, 54, 60, 61 and 63–66 remain as previously presented.

Thus, after entry of the foregoing amendments, Claims 33–45, 48–54 and 56–66 are pending and presented for further consideration. In view of the foregoing amendments and the remarks set forth below, Applicant respectfully submits that Claims 33–45, 48–54 and 56–66 are in condition for allowance.

SUMMARY OF REJECTIONS

Claims 33–36, 38, 41, 50, 51, 53, 62 and 64 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,865,680 to Briggs ("Briggs") in view of U.S. Patent No. 6,404,409 to Solomon ("Solomon").

Claims 37, 39, 40, 42–49, 52, 54–61, 63, 65 and 66 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Briggs in further view of Solomon, U.S. Patent No. 5,114,155 to Tillery et al. ("Tillery"), and U.S. Patent No. 6,371,375 to Ackley et al. ("Ackley").

ACKNOWLEDGEMENT OF INFORMATION DISCLOSURE STATEMENT

Applicant notes that an Information Disclosure Statement was mailed jointly with a Request for Continued Examination on May 8, 2007. The June 18, 2007 Office Action, however, did not include a copy of the Information Disclosure Statement indicating consideration of the listed references by the Examiner. Applicant respectfully requests that a signed copy of the May 8, 2007 Information Disclosure Statement be included with the next Office Action.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

The June 18, 2007 Office Action rejects Claims 33–36, 38, 41, 50, 51, 53, 62 and 64 as being unpatentable over Briggs in view of Solomon. Claims 37, 39, 40, 42–45, 48, 49, 52, 54, 56–61, 63, 65 and 66 are rejected as being unpatentable over Briggs in further view of Solomon, Tillery and Ackley.

In view of the foregoing amendments and for at least the reasons set forth below, Applicant respectfully disagrees and requests reconsideration of the aforementioned claims.

Independent Claim 33

Focusing on independent Claim 33, in one embodiment of Applicant's invention an interactive gaming system is disclosed for entertaining one or more play participants. The system comprises, among other things, one or more play modules disposed within a play structure. Each play module includes multiple play elements comprising one or more interactive games or challenges to be played/ completed by the play participant(s) as part of an overall quest or mission. At least two of the interactive games or challenges are arranged or organized sequentially such that a first interactive game or challenge is necessary to be played or completed before a second game or challenge can be played or completed.

The system further comprises at least one portable indicium associated with and uniquely identifying each play participant, the portable indicium including a toy wand operable by play participants by waving, shaking, stroking and/or tapping the wand in a predetermined manner to wirelessly actuate at least one of the play elements.

Neither Briggs, Solomon, nor a combination thereof, teaches or suggests the interactive system of amended independent Claim 33. For instance, none of the cited art teaches or suggests "play elements . . . comprising one or more interactive games or challenges configured to be played or completed by . . . play participants as part of an overall quest or mission" and a "portable indicium . . . uniquely identifying each play participant [and] comprising a toy wand operable by play participants by waving, shaking, stroking and/or tapping said wand in a predetermined manner to wirelessly actuate at least one of said multiple play elements."

Rather, Briggs is directed to a kinetic interactive play structure for entertaining a plurality of play participants. For example, in the embodiment described with respect to Figure 1, the Briggs play structure (10) utilizes large, heavy balls (102) that travel along conduits (22) between play elements (see, e.g., col. 3, line 63 to col. 4, line 10; col. 4, line 57 to col. 5., line 8; col. 6, lines 9–46). Briggs does not disclose a toy wand

operable by play participants by waving, shaking, stroking and/or tapping the wand in a predetermined manner to wirelessly actuate at least one play element.

Solomon is directed to volumetric imaging devices created by moving light emitting elements (see col. 1, lines 6–9). In particular, Solomon discloses a wand apparatus (10) having LED arrays (12,14) and an image computer (30) (see Figure 1). As the wand (10) is moved, the image computer (30) drives changes in the intensity of each LED to create a virtual image (22) (see col. 3. lines 36–64). Solomon does not appear, however, to teach or suggest a toy wand that is configured to wirelessly actuate play elements in a play structure, wherein the play elements comprise one or more interactive games or challenges to be played/completed by the play participant(s) as part of an overall quest or mission.

Moreover, Applicant respectfully submits that it would not have been obvious at the time of Applicant's invention to combine Briggs and Solomon to teach the interactive gaming system of independent Claim 33. For instance, there appears to be no suggestion or motivation to use the imaging device of Solomon to wirelessly actuate play elements in a play structure, such as the kinetic play elements in the play structure described in Briggs.

Because the references cited by the Office Action do not disclose, teach or suggest the interactive gaming system of amended independent Claim 33, Applicant asserts that Claim 33 is patentably distinguished over the cited art, and Applicant respectfully requests allowance of Claim 33.

Independent Claim 42

Amended independent Claim 42 is believed to be patentably distinguished over the cited art for reasons similar to those set forth above with respect to the patentability of independent Claim 33 and for the different aspects recited therein. That is, neither Briggs, Solomon, Tillery, Ackley, nor a combination thereof, teaches or suggests "a wand device that wirelessly interfaces with and exchanges data with . . . multiple play elements to activate at least one of said multiple play elements," as recited in independent Claim 42. Rather, Tillery appears to be directed to an electronic system

for the automatic collection of player statistics during an electronic dart game. Ackley appears to disclose radio frequency memory tags having a memory for storing data.

Independent Claim 52

Amended independent Claim 52 is believed to be patentably distinguished over the cited art for reasons similar to those set forth above with respect to the patentability of independent Claim 42 and for the different aspects recited therein. That is, neither Briggs, Solomon, Tillery, Ackley, nor a combination thereof, teaches or suggests "allowing . . . one or more recognized play participants to play with a second group of play elements operatively associated with [a] second play environment to achieve a second set of desired goals, points or game levels, wherein [a] portable toy device is configured to wirelessly actuate at least one play element of said second group of play elements," as recited in independent Claim 52.

Independent Claim 59

Amended independent Claim 59 is believed to be patentably distinguished over the cited art for reasons similar to those set forth above with respect to the patentability of independent Claim 42 and for the different aspects recited therein. That is, neither Briggs, Solomon, Tillery, Ackley, nor a combination thereof, teaches or suggests "one or more play elements arranged in a desired theme within a play facility . . . being wirelessly actuatable in response to a predetermined wireless actuation signal [and] one or more toy wands operable by play participants by waving, shaking, stoking and/or tapping said wand in a predetermined manner to wirelessly actuate said one or more play elements," as recited in independent Claim 52.

Dependent Claims

Claims 34–41 depend from independent Claim 33 and are believed to be patentably distinguished over the cited art for the reasons set forth above with respect to Claim 33 and for the additional features recited therein.

Claims 43–45 and 48–51 depend from independent Claim 42 and are believed to be patentably distinguished over the cited art for the reasons set forth above with respect to Claim 42 and for the additional features recited therein.

Claims 53, 54 and 56–58 depend from independent Claim 52 and are believed to be patentably distinguished over the cited art for the reasons set forth above with respect to Claim 52 and for the additional features recited therein.

Claims 60–66 depend from independent Claim 59 and are believed to be patentably distinguished over the cited art for the reasons set forth above with respect to Claim 59 and for the additional features recited therein.

RESCISSION OF PRIOR DISCLAIMERS AND REQUEST TO REVISIT CITED ART

The pending claims may be different and possibly broader in scope than any claims previously pending in the present application. In particular, Applicant amended claims and discussed U.S. Patent Nos. 6,352,478; 5,114,155; 5,865,680; 6,371,375; 5,378,197 and 5,194,048 during prosecution of the present application. To the extent that any amendments or characterizations of the scope of any claim or cited art could be construed as a disclaimer of any subject matter supported by the present disclosure, the Applicant hereby rescinds and retracts such disclaimer. Accordingly, U.S. Patent Nos. 6,352,478; 5,114,155; 5,865,680; 6,371,375; 5,378,197 and 5,194,048, or other listed or referenced art may need to be revisited.

PROSECUTION OF APPLICANT'S CASES WITH RELATED SUBJECT MATTER

Applicant further notes that several other pending applications and issued patents owned by Applicant may recite subject matter similar to the claims of the present application. Applicant requests the Examiner to consider the following Office Actions and associated responses by Applicant in each of the following cases when determining the patentability of the pending claims of the present application.

Appl. No./ Patent No.	Attorney Docket No.	Document	Date
6,634,949	N/A	Non-Final Rejection	05-21-2002
		Response after Non-Final Action	11-21-2002
6,967,566	CKING.003A	Non-Final Rejection	07-28-2004
		Response after Non-Final Action	11-01-2004

		Final Rejection	01-26-2005
		Amendment after Final Rejection	03-28-2005
11/183,592	CKING.003C1	Non-Final Rejection	03-05-2007
6,761,637	N/A	Non-Final Rejection	06-11-2003
		Response after Non-Final Action	11-03-2003
10/397,054	CKING.002CP1	Non-Final Rejection	10-20-2004
		Response after Non-Final Action	01-25-2005
		Final Rejection	04-01-2005
		Request for Continued Examination	06-30-2005
		Non-Final Rejection	09-28-2005
		Response after Non-Final Action	12-20-2005
		Final Rejection	05-18-2006
		Appeal Brief	10-27-2006
		Examiner's Answer	03-15-2007

Upon request, Applicant will also provide the Examiner with copies of any of the aforementioned documents.

CONCLUSION

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or cited art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue in one or more continuations or divisional applications any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution

history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain, the Examiner is cordially invited to contact the undersigned such that the issues may be promptly resolved.

Moreover, by the foregoing amendments and remarks no admission is made that any of the above-cited references are properly combinable. Rather, Applicant submits that even if the references are combined, the references still do not teach or suggest the claimed invention.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 6/22/2007

By: _____

Christian A. Fox
Registration No. 58,507
Attorney of Record
Customer No. 20,995
(949) 760-0404

3898956_2
062107